

REMARKS

This application has been reviewed in light of the Final Office Action mailed on July 3, 2008. Claims 72-145 and 152-161 are pending in the application with claims 72, 89, 106, 119, 137, and 152 being in independent form. By the present amendment, claims 72, 89, 106, 119 and 152 have been amended. No new matter is believed to be introduced by the amendments. In view of the amendments and remarks to follow, reconsideration and allowance of this application are respectfully requested.

Related Application

Related U.S. Patent Application Serial No. 10/977,929 has been allowed to proceed to issuance.

Allowable Claims

Applicants acknowledge and greatly appreciate the indication of the allowability of claims 137-145.

Information Disclosure Statement

Applicants have noted that the IDS filed May 27, 2008 was not considered by the Examiner. In response thereto, Applicants are requesting herewith continued examination of the present application and are resubmitting the IDS for consideration by the Examiner. Accordingly, Applicants respectfully request consideration of the IDS.

Claim Rejections under 35 U.S.C. §102(e)

Claims 72-75, 78-92, 95-108, 111-123, 126-136, 152-155, and 158-161 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,580,344 to Li (“Li”). Applicants respectfully submit that independent claims 72, 89, 106, 119, and 152, as recited herein, are allowable over Li because Li fails to disclose or suggest all of the limitations of independent claims 72, 89, 106, 119, and 152. Accordingly, the rejection of Claims 72, 89, 106, 119, and 152 is respectfully traversed.

According to §2131 of the MPEP, to anticipate a claim, the reference must teach every element of the claim. “A claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference.”

Amended claims 72, 119, and 152 recite, *inter alia*, “a circuit interrupting device... wherein the first, second, and third electrical conductors are electrically isolated from each other.” Amended claim 89 recites, *inter alia*, “a circuit interrupting device...wherein the first, second, and third pairs of terminals are electrically isolated from each other.” Amended claim 106 recites, *inter alia*, “a circuit interrupting device...wherein the line, load, and face terminals are electrically isolated from each other.”

As acknowledged in the Office Action (pages 3-4) in reference to the allowability of claims 137-145 of the present application, Li (in view of U.S. Patent No. 6,642,823 to Passow (“Passow”)) fails to disclose that the line, load, and face terminal pairs are electrically isolated from each other. By the present Amendment, Applicants have amended each of claims 72, 89, 106, 119, and 152 to include a limitation substantially similar to the limitation of independent claim 137 which the Examiner cites as the reason claims 137-145 are allowable. More specifically, as described in the specification of the present application, “[t]he line, load and face

terminals are electrically isolated from each other and are electrically connected to each other by a pair of movable bridges.” (Page 4, paragraph [0041]). Thus, similar to the recited line, load, and face terminal pairs of claim 137, the recited first, second, and third electrical conductors of amended claims 72, 119, and 152, the recited first, second, and third pairs of terminals of amended claim 89, and the recited line, load, and face terminals of amended claim 106 are electrically isolated from each other unless electrically connected to each other by a movable bridge.

Therefore, for analogous reasons to those discussed above regarding the allowability of claims 137-145, Applicants respectfully submit that claims 72, 89, 106, 119, and 152 are also allowable under 35 U.S.C. § 102(e) over Li because Li fails to disclose each and every limitation of independent claims 72, 89, 106, 119, and 152.

Accordingly, in view of the foregoing amendments to claims 72, 89, 106, 119, and 152 and in view of the foregoing remarks/arguments, Applicants respectfully submit that the rejection of each of Claims 72, 89, 106, 119, and 152 as being anticipated under 35 U.S.C. §102(e) over Li has been overcome.

Since claims 73-75 and 78-88, 90-92 and 95-105, 107-108 and 111-118, 120-123 and 126-136, and 153-155 and 158-161 depend from independent claims 72, 89, 106, 119, and 152, respectively, for the reasons presented above regarding the patentability of claims 72, 89, 106, 119, and 152, Applicants respectfully submit that claims 73-75, 78-88, 90-92, 95-105, 107, 108, 111-118, 120-123, 126-136, 153-155, and 158-161 are also patentable over Li.

Claim Rejections under 35 U.S.C. §103(a)

Claims 76, 77, 93, 94, 109, 110, 124, 125, 156, and 157 were rejected under 35 U.S.C. §103(a) as being unpatentable over Li in view of Passow. Passow discloses a contact block assembly having a return spring positioned outside a pusher. It is respectfully submitted that the present invention as claimed is patentably distinguishable over Li in view of Passow.

It is respectfully submitted that Passow fails to cure the above described deficiencies of Li with respect to Claims 72, 89, 106, 119, and 152 as discussed above. Since Claims 76, 77, 93, 94, 109, 110, 124, 125, 156, and 157 depend from claims 72, 89, 106, 119, and 152, respectively, and contain all of the limitations of claims 72, 89, 106, 119, and 152, respectively, for reasons analogous to those presented above regarding the patentability of claims 72, 89, 106, 119, and 152, Applicants respectfully submit that each of Claims 76, 77, 93, 94, 109, 110, 124, 125, 156, and 157 is also patentable.

A prerequisite for a citation of a reference in an obviousness rejection is that the art be analogous. Analogous art is that which is relevant to a consideration of obviousness under 35 U.S.C. § 103. See In re Sovish, 769 F.2d 738, 741 (Fed. Cir. 1985). Whether something legally within the prior art is “analogous” is a question of fact. Panduit Corp. v. Dennison Mfg. Co., 810 F.2d 1561, 1568 n. 9 (Fed. Cir.) cert denied, 481 U.S. 1052 (1987). There are two criteria which are relevant when determining whether a prior art reference is analogous:

1. Whether the art is from the same field of endeavor, regardless of the problem addressed, and
2. If the art is not within the same field of endeavor, whether it is still reasonably pertinent to the particular problem to be solved. In re Clay, 966 F.2d 656, 658-659, 23 USPQ2d 1058, 1060 (Fed. Cir. 1992).

In resolving the question of obviousness under 35 U.S.C. § 103, it is presumed the inventor has full knowledge of all the prior art within the field of his endeavor. With regard to art outside the inventor's field of endeavor, however, the inventor is only presumed to have knowledge of those arts reasonably pertinent to the particular problem with which the inventor was involved. A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to that of the inventor's attention in considering his problem. Id. at 659, 23 USPQ2d at 1061.

Further, §35 U.S.C. § 103 states that an invention is not patentable if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. "[O]ne of ordinary skill in the art to which [the] subject matter pertains" in design cases is a "designer of ordinary capability who designs articles of the type presented in the application." In re Nalbandian, 661 F.2d 1214, 1216, 211 USPQ 782, 784 (CCPA 1981). See also, Saunders v. Air-Flo Co., 646 F.2d 1201, 1207 (regarding a patent for an air baffle to reduce wind drag on truck, hypothetical artisan deemed expert in truck design but not in aerodynamics). Thus, the art to which the subject matter pertains thus consists of articles of the type claimed. See Ex parte Dussaud, 7 USPQ2d 1818, at 1819 (Bd. Pat. App. 1988) (where cited reference pertaining to carpet manufacture was not considered within the field of inventor's endeavor - diaper manufacture).

The instant fact situation presents an even stronger case for the Examiner's improper citation and reliance on non-analogous art. Passow is not an article of the same type as Applicant's; Passow relates to the use of a return spring outside of a pusher to keep the "pusher

return force” in a contact block as low as possible. This assembly and method, which uses a pair of springs in conjunction with a movable contact to provide a contact block assembly with a return spring positioned outside the pusher, could not be used as a circuit interrupting device. Applicant’s article as now claimed, on the other hand, relates to circuit interrupting device including, inter alia, first and second fingers movable to electrically engage the second and third electrical conductors, respectively. A person designing a circuit interrupting device would not have reason to know, look or even consider a system or method for lowering “pusher return force” in a contact block in an unrelated field which uses a pair of springs in conjunction with a movable contact.


In essence, the Passow reference is not reasonably pertinent because it is from a different field from that of the applicant’s endeavor, and, logically, would not have commended itself to that of the applicant’s attention when considering their design. In re Clay, at 659, 23 USPQ2d at 1061. Therefore, under §103, there is nothing in Passow to suggest the desirability, thus the obviousness, to a person having ordinary skill in the art of circuit interrupting device making to design an article in the cited fashion. Fromson v. Advance Offset Plate, Inc., 755 F.2d 1549, 1556, 225 USPQ 26, 31 (Fed. Cir. 1985). See also, In re Deminski, 230 USPQ 313, 315, 796 F.2d 436(CAFC 1986).

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, claims 72-145 and 152-161, are believed to be in condition for allowance.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call the Applicants' undersigned attorney at the Examiner's convenience.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'George Likourezos', written over the printed name.

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